

NOTICE OF INTENT

Department of Revenue Policy Services Division

Collection of In-State Tax Liabilities by Debt Collection Agencies or the Attorney General's Office (LAC 61:I.4913)

Under the authority of R.S. 47:1511 and R.S. 47:1516.1 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4913, the rules and regulations pertaining to the authority of the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of in-state tax liabilities.

R.S. 47:1516.1 authorizes the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of certain in-state tax liabilities. The in-state debt collection contract Request for Proposal will be advertised in the official journal of the state and in one or more newspapers for at least 10 days before the last day that proposals will be accepted. The deadline for inquiries shall be no less than four weeks after the issuance of the Request for Proposal and the due date for submission of the proposals shall be no less than three weeks after the deadline for inquiries. The secretary will select a committee to evaluate the proposals and make a recommendation and applicants will be notified of the selection in a timely manner.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4913. Collection of In-State Tax Liabilities by Debt Collection Agencies or the Attorney General's Office

A. Definitions

1. For purposes of this Rule, the following terms shall have the meaning ascribed to them.

Attorney General—the attorney general of the state of Louisiana.

Collection Contractor—the attorney general or one or more private persons, companies, associations, or corporations who provide debt collection services inside the state.

B.1. The secretary is authorized to enter into contracts with collection contractors to facilitate the collection of taxes, interest, penalties, and fees due the department after an obligation has become collectible by distraint and sale.

2. The secretary may only enter into a collection contract after notice by regular mail has been transmitted to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity that will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from United States Postal Service certified software.

3. The taxpayer will be informed of the following:

- a. that the obligation is a final judgment;
- b. all the actions the secretary is authorized to take in order to collect the debt; and

c. that if the debt is not paid within 60 days of the date of the notice, a collection fee not to exceed 25 percent of the total liability will be charged to the account.

4. The taxpayer must pay the full amount of any additional charge for the collection of any taxes, interest, penalties, or fees. If an account is referred to a collection contractor, the additional charge will be paid to the collection contractor.

C. The secretary will consider the following criteria in selecting collection contractors:

1. fees charged;
2. organizational structure;
3. experience with government accounts;
4. computer capabilities including the ability to generate reports and formatting;
5. collection methodology;
6. financial stability; and,
7. personnel resources.

D. Prior to entering into any contract, the secretary will require a performance bond, cash, or securities from the collection contractor in an amount not to exceed \$100,000.

E. Once the collection contract is entered into, the secretary will provide information to the collection contractors concerning the accounts of individual taxpayers only to the extent necessary for the collection contractor to fulfill his contractual obligation.

a. The information furnished by the secretary will be considered confidential and privileged by the collection contractor and members of his staff, as provided by R.S. 47:1508.

b. Collection contractors may not take any action that exceeds the authority of the secretary and must follow the Fair Debt Collection Practices Act.

F. With the approval of the secretary, the collection contractor may file suit, at his expense, in the name of the secretary in the courts of this state for the purpose of collecting the tax debt.

G.1. Nothing contained in this Rule shall be construed to affect in any manner any rights and remedies available to the taxpayer.

2. This Rule does not apply to a spouse who qualifies for liability relief under the innocent spouse provisions of R.S. 47:101.B(7).

H. The attorney general will have a right of first refusal for all accounts selected to be sent to a collection contractor.

1. A list of accounts selected will be compiled by the secretary and forwarded to the attorney general for the exercise of his right of first refusal.

2. The right of first refusal shall be exercised within 30 days of the date of mailing or electronic transmission of the list.

3. If the attorney general fails to exercise his right of first refusal within 30 days or refuses to accept an account, the secretary may send the account to any collection contractor meeting the requirements of Subsection C.

4. When the attorney general accepts an account for collection, the collection fee may not exceed 15 percent of the total liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1516.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 28:

Family Impact Statement

1. Will the Proposed Rule Affect the Stability of the Family? The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. Will the Proposed Rule Affect the Authority and Rights of Parents Regarding the Education and Supervision of Their Children? The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. Will the Proposed Rule Affect the Functioning of the Family? The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. Will the Proposed Rule Affect Family Earnings and Family Budget? The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. Will the Proposed Rule Affect the Behavior and Personal Responsibility of Children? The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. Is the Family or a Local Government Able to Perform the Function as Contained in the Proposed Rule? The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Miscellaneous Taxes and Regulatory Services, Policy Services Division, 617 North Third Street, Baton Rouge, LA 70802-5428 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., September 25, 2002. A public hearing will be held on September 26, 2002, at 9:30 a.m. at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collection of In-State Tax Liabilities by Debt Collection Agencies or the Attorney General's Office

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

If the Department were to contract with private collectors the only state cost associated with this effort would be administrative costs to establish the procedures to assign cases, provide information to the contractor, and track and monitor activities of this effort. If the Department were to contract with the Attorney General, state costs associated with this effort would involve administrative costs as well as the actual collection costs incurred by the Attorney General. Implementation of this proposal will require computer programming and design, additional personnel to maintain and run the application, and tape cartridges to transmit the data as follows: a 4 percent inflation factor was used to project the personal services costs for the subsequent years.

Initial Costs for First Year

Professional Services	
Computer Program Design and Specifications	\$ 2,040
Computer Programming and Testing	\$39,000
Total Initial Computer Programming Costs	\$41,040
Other Charges-Computer Run Time	\$22,750
Acquisitions	\$ 192

Recurring Annual Costs

Personal Services	
1-IT Production Control Tech 3	\$32,800
1-IT Application Programmer/Analyst 2	\$51,300
Total First Year Personal Services	\$84,100
Other Charges-Computer Run Time	\$33,600

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The current out-of-state collection contractors have collected less than 6 percent of the amount of out-of-state uncollectible accounts that exist. Applying that rate to the \$52,000,000 of in-state uncollectible accounts suggests that possibly \$3,000,000 per year could be collected through this effort. Collection of in-state uncollectible accounts might actually be easier than out-of-state uncollectible accounts, meaning that the collection rate might exceed 6 percent. However, these are accounts that the Department has been unable to collect, and any additional revenue collections from them would be speculative and cannot be estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed regulation because these are taxes that are owed to the Department and are currently not collectible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0208#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office